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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,994	05/01/2001	Richard E. Hunter	0095-194	3915

7590                    09/11/2002

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EXAMINER	
HWU, DAVIS D	
ART UNIT	PAPER NUMBER
3752	

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/846,994	HUNTER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Davis Hwu	3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
**THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 May 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5,8,9,11,14,16,17 and 19 is/are rejected.
- 7) Claim(s) 4,6,7,10,12,13,15,18 and 20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 8, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sesser (US Patent 5,288,022).

The patent to Sesser discloses a sprinkler comprising a riser for receiving a pressurized fluid, a nozzle, means for mounting the nozzle at an upper end of the riser for rotation about an axis, a turbine mounted for rotation inside the riser, drive means for connecting the turbine to the nozzle so that rotation of the turbine by the pressurized fluid will rotate the nozzle (Column 7, lines 14-40), and means for preventing over-spinning of the turbine in which the means comprise a brake as recited in claim 2 (Column 1, lines 66-67). Although Sesser does not disclose the means for preventing over-spinning of the turbine when the pressurized fluid is air or a mixture of water and air, the device of Sesser is capable of carrying out this function.

3. Claims 3, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sesser in view of Brown et al.

The patent to Sesser discloses the instant invention except for the valve means as recited. The patent to Brown et al. teaches a flow control valve used in a pop-up sprinkler in which the valve diverts flow from one line to another when the flow rate

exceeds a certain value in which the valve includes a float 28 that moves upwardly when the pressurized fluid entering the lower end of the riser is substantially entirely water and covers the inlet orifice as recited in claim 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Sesser in incorporating a valve for selectively re-directing the fluid around the turbine as taught by Brown et al. in order to prevent over-spinning of the turbine.

4. Claims 16, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sesser in view of Brown et al.

The patent to Sesser discloses the instant invention except for the valve means as recited. The patent to Brown et al. teaches a flow control valve used in a pop-up sprinkler in which the valve diverts flow from one line to another when the flow rate exceeds a certain value in which the valve includes a float 28 that moves upwardly when the pressurized fluid entering the lower end of the riser is substantially entirely water and covers the inlet orifice as recited in claim 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Sesser in incorporating a valve for selectively re-directing the fluid around the turbine as taught by Brown et al. in order to prevent over-spinning of the turbine.

Sesser and Brown et al. do not disclose a cylindrical float. It would have been an obvious matter of design choice to have made the float cylindrical, since such a modification would have involved a mere change in the shape of an object.

***Allowable Subject Matter***

5. Claims 4, 6, 7, 10, 12, 13, 15, 18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Christen and Sesser (US Patent Numbers 5,971,297 and 5,372,307) are pertinent to Applicant's invention in disclosing a rotor type sprinkler with turbine over-spin prevention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7766 for regular communications and (703)308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.

  
DDH  
September 5, 2002